



**Date:** March 11, 2024

**To:** Mayor and Council

**Author:** Vitra Chodha, Planner

**RE:** Application for Consent B-2024-7 & Zoning By-law ZBA-2024-4  
291 Main Street E

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## RECOMMENDED ACTION

1. That Council **APPROVE** consent applications B-2024-7 to create one (1) new lot located at 291 Main Street East, in the Town of Kingsville, subject to the following conditions:
  - a) A reference plan be deposited in the registry office, and an electronic copy be provided to the Secretary-Treasurer of Committee of Adjustment at the Town of Kingsville for the file;
  - b) That reciprocal easements for access must be registered on title in favour of the severed parcel (created lot) from 271, 281, 291 Main St. E.
  - c) That mutual easements be registered on title between the retained (retained lot) and severed parcels (retained lot) for services.
  - d) The conditions imposed above shall be fulfilled by March 11<sup>th</sup>, 2026 for this application shall be deemed to be denied in accordance with Section 53(41) of the Planning Act.
2. And that By-law 24-2024 being a By-law to amend the Comprehensive Zoning By-law 1-2014 for the Town of Kingsville, to amend the zoning on the subject parcel municipally known as severed parcel (created lot), from 'General Commercial (C4)' to 'General Commercial Exception 8 (C4-8)' **BE APPROVED**; to permit:
  - a. Elimination of the required frontage from 15.0 m (50.0 ft) to 0.0 m (0.0 ft).

## BACKGROUND

The Town of Kingsville has received the above-noted application for the property municipally known as 291 Main Street East. The subject land is located on the south side of Main Street East, west of Wigle Avenue, as shown on the attached location map (see Appendix A). The subject properties are designated 'Highway Commercial' under the Town of Kingsville Official Plan (OP) and zoned 'General Commercial (C4)' in the Town of Kingsville Comprehensive Zoning By-law 1-2014.

The subject site has an approximate area of 9,348.24 m<sup>2</sup> (100,623.6 ft<sup>2</sup>) and contains an existing commercial building, namely TD Canada Trust Bank, at the north end of the property, facing Main Street East. The applicant is proposing to sever the vacant (grassed) portion at the south end of the site to create a new lot with no frontage on an existing public road.

The proposed new parcel (severed lot) will have an area of 3,813 m<sup>2</sup> (41,043 ft<sup>2</sup>), and 0.00m frontage, creating a landlocked parcel. The retained lot will contain the existing TD Canada Trust bank and have an area of 5,509 m<sup>2</sup> (59,300 ft<sup>2</sup>) with a frontage of 55.48 m (182.03 ft) along Main Street East. The proposed use for the new lot (as seen in Appendix B) is a future medical clinic in Kingsville. Medical Offices are a permitted use within the General Commercial (C4) zone in the Town of Kingsville Comprehensive Zoning By-law 1-2014.

As shown in the survey/Draft Reference Plan in Appendix C, the proposed lot does not have frontage on the neighbouring public roads, Main Street East or Wigle Avenue. Therefore, it is compulsory that the property be created together with a number of reciprocal easements to ensure adequate access and servicing.

As a result of the proposed severance to create a landlocked parcel, the applicant is required to apply for a site-specific Zoning By-law Amendment (ZBA) to allow for the elimination of the required lot frontage of 15.0 m (50.0 ft), and request 0.0 m (0.0 ft) lot frontage for the severed parcel.

Prior to any development being undertaken on the lands or building permits being issued, the applicant must obtain Site Plan Approval from the Town of Kingsville and enter into a development agreement.

## **DISCUSSION**

When considering a severance request, it is necessary to review the application in the context of the following documents to determine the appropriateness of the request:

### **1.0 Provincial Policy Statement (2020)**

When reviewing a planning application to determine if it represents sound planning, the proposed development must be consistent with the Provincial Policy Statement (PPS): "The Provincial Policy Statement provides policy direction for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. PPS recognizes that the wise management of development may involve directing, promoting or sustaining growth. Land use must be carefully managed to accommodate appropriate development to meet the full range of current and future needs while achieving efficient development patterns."

The Provincial Policy Statement generally approves of creating lots within a settlement area. However, it does not specify the criteria that each lot must meet based on its location and intended use. Nevertheless, PPS does emphasize the need for access to and from each site. The proposed lot in question does not have frontage on a public right of way, but a plan is in place to create a series of reciprocal accesses through neighbouring properties, which will ensure access is provided to the proposed parcel of land.

The Official Plan and the Zoning By-law, as outlined in sections 2.0 and 3.0 of this report, provide additional guidelines for creating lots within a settlement area for commercial purposes.

## **2.0 Official Plan – Town of Kingsville (2023)**

The Official Plan for the Town of Kingsville designates the subject property 'Highway Commercial'. The development of existing site and vacant site is encouraged within the Highway Commercial designation. However, the proposed development will have no frontage on a public road and is requesting a site-specific Zoning By-law Amendment (ZBA) to allow for the creation of a land parcel with no frontage on a public road.

Generally, matters such as minimum required lot frontage, or lot area are not specified in the Official Plan, but are more appropriately dictated in a Zoning By-law which is considered "applicable law" under the Ontario Building Code Act. Section 3.0 of this report, below, examines the requirements of Town of Kingsville Zoning By-law 1-2014.

Section 7.3 a) indicates *"three new lots or fewer may be created by consent provided the proposed use is permitted in this Plan, the Town is satisfied that a plan of subdivision is not required, adequate access can be provided, adequate potable water supply, sanitary sewage treatment and disposal and stormwater management can be provided in accordance with this Plan, all to the satisfaction of the Town, and the proposed lots comply with the Zoning By-law."*

Section 7.3 b) *"Consents should be granted only when the land fronts on an existing public road which is of a reasonable standard acceptable to the Town and/or the Province or the County of Essex."*

The proposed lot creation does not fully comply with the requirements for lot creation in the Town of Kingsville's Official Plan. Specifically, Section 7.3 b) mandates that proposed lots should have frontage on an existing public road. This is to ensure that each parcel has sufficient access to a public road to enable proper use and maintenance of the site. Additionally, Section 7.3 a) emphasizes the importance of adequate access for the creation of a new lot.

While the proposed lot creation does not fully meet the Official Plan's requirements and deviates from good planning practices, some of the concerns related to lack of frontage are addressed through the creation of reciprocal easements for access and servicing. These easements will provide access and servicing to the proposed lot.

## **3.0 Comprehensive Zoning By-law – Town of Kingsville (2014)**

The property under consideration is zoned as 'Central Commercial (C4)' in the Town of Kingsville Comprehensive Zoning By-law 1-2014.

The C4 zone mandates a minimum lot area of 464.0 m<sup>2</sup> (5,000.0 ft<sup>2</sup>) and a minimum frontage of 15.0 m (50.0 ft). The proposed lot has a lot area of 3,813 m<sup>2</sup> (41,043 ft<sup>2</sup>) with a frontage of 0.0 m (0.0 ft). The proposed lot meets the minimum lot area requirement, but does not meet the minimum lot frontage requirement of Zoning By-law 1-2014, as the parcel is landlocked with no frontage on a municipal right-of-way.

The applicant is, therefore, requesting a site-specific zoning by-law amendment in conjunction with the consent application to eliminate the minimum required frontage from 15.0 m (50.0 ft) to 0.0 m (0.0 ft).

The minimum frontage requirement is typically set to ensure there is enough space for access, servicing, and development needs of the lot. Furthermore, frontage of a land parcel is one other major factors impacting the assessed value of the parcel. The assessed value of a lot with a unique layout, such as being landlocked, would limit the freedom of use or functionality of the land, and make the parcel less efficient than other commercial properties created within a desirable lot pattern.

To mitigate some of the negative impacts of creating a landlocked parcel, reciprocal access and servicing easements must be registered between the severed and retained parcels, in favour of the retained parcel, in order to provide access to the lot from Main Street East (see Appendix B.) A reference plan is required, showing all easements for the servicing and access for this proposed new lot.

Generally, lots are created with frontage on the municipal right-of way and all services are encouraged to not cross property boundaries to ensure ease of maintenance and un-interfered access to the site, however in this instance due to the proposed parcel being landlocked, the services will need to be connected through the retained parcel (TD Canada Trust bank) through mutual easement agreement and the site will need to be accessed through a shared driveway between the retained parcel (TD Canada Trust bank) and the subject site. Although this is not a desirable lot creation practice, it addresses the basic needs for access and servicing to the new lot.

## **NEXT STEPS**

Should the application be approved by Council, the applicant will be required to complete Site Plan Approval processes to ensure that servicing, parking, internal vehicle and pedestrian traffic flows, setbacks from neighbouring properties, lighting, and other elements are consistent with the Town's Development Guidelines and associated planning and design standards.

## **FINANCIAL CONSIDERATIONS**

The future development of the site will add assessment value to the Municipality and bring new medical services that will benefit the Town's residents.

## **ENVIRONMENTAL CONSIDERATIONS**

No environmental concerns are identified

## **CONSULTATIONS**

Notice of Public Meeting and information regarding the requested consent applications were sent to all property owners within 120m of the subject land.

In accordance with standard practice for planning applications applicable external agencies and internal departments have been circulated.

**PREPARED BY:**

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